

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

Harold Allen,

Plaintiff,

v.

Bluestem Brands, Inc. d/b/a Fingerhut,

Defendant.

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: Civil Action No.: 1:13-cv-00981
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: **DEMAND FOR JURY TRIAL**
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COMPLAINT & JURY DEMAND

For this Complaint, Plaintiff, Harold Allen, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business here and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

3. Plaintiff, Harold Allen (hereafter "Plaintiff"), is an adult individual residing in Allendale, Michigan and is a "person" as defined by 47 U.S.C. § 153(10).
4. Defendant, Bluestem Brands, Inc. d/b/a Fingerhut (hereafter "Bluestem"), is a corporation with a principal place of business at 6509 Flying Cloud Drive, Eden Prairie, Minnesota, and is a "person" as defined by 47 U.S.C. § 153(10).

FACTS

5. Beginning in or around August 2013, Bluestem placed multiple calls to Plaintiff's

cellular telephone using an automatic telephone dialing system (“ATDS”) and/or by using an artificial or pre-recorded voice.

6. When answering Bluestem’s telephone calls, Plaintiff heard a pre-recorded message stating that Bluestem was attempting to reach “Tekesha Nelson”.

7. Plaintiff never provided consent to Bluestem to be contacted on his cellular telephone.

8. On several occasions, Plaintiff called Bluestem to request that it cease placing automated calls to his cellular telephone. However, Plaintiff has been unable to reach a live representative through Bluestem’s automated system.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

9. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

10. Without prior express consent, Defendant contacted Plaintiff by means of automated telephone calls on his cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii). As such, each call placed to Plaintiff is a knowing and/or willful violation of the TCPA, and is therefore subject to treble damages of \$1,500.00 per call pursuant to 47 U.S.C. § 227(b)(3)(C).

11. In the alternative, as a result of each negligent call made in violation of the TCPA, Plaintiff is entitled to an award of \$500.00 for each call pursuant to 47 U.S.C. § 227(b)(3)(B).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

12. Statutory damages for each violation pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);

13. Punitive damages; and

14. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: September 6, 2013

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.
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